United States Court of Appeals

FOR THE

SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the **second** day of **May** one thousand nine hundred and **seventy-four.**

Present:

HON. JOHN A. DANAHER,

HON. J. EDWARD LUMBARD,

HON. WILLIAM H. TIMBERS,

Circuit Judges,

United States of America,
Plaintiff-Appellant,

v.

Stefano Magaddino, Peter A. Magaddino, Benjamin Nicoletti, Sr., Benjamin Nicoletti, Jr., Gino Frank Monaco, Sam Joseph Puglese, Michael Farella, Augustine Rizzo, Jr. a/k/a Augie Rizzo, Patsy Passero, and Louis Tavano a/k/a Lewis Tavano,

Defendants-Appellees.

73-1933

Appeal from the United States District Court for the Western District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the Western District of New York, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the **order** of said District Court be and it hereby is **affirmed as to all appellees except Augustine Rizzo, Jr. and Patsy Passero and as to these appellees said order be and it hereby is reversed and that the action be and it hereby is remanded to said District Court for further proceedings in accordance with the opinion of this court.**

FILED
JUN 21 8 44 AM '74
U.S. DISTRICT COURT
W.D. OF N.Y.

A. DANIEL FUSARO
Clerk

by Vincent A. Carlin
Chief Deputy Clerk

(A true copy,
A. Daniel Fusaro Clerk